

Tuesday, February 25, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:30 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SPECIAL PRESENTATION

Fuel Tax Swap

Michelle Pielsticker, Chief, Legislative and Research Division, introduced Brad Williams, Partner, Capitol Matrix Consulting who gave a report on BOE Fuel Tax Rate Calculation Methodology ([Exhibit 2.1](#)).

Exhibits to these minutes are incorporated by reference.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Joe Fitz, Chief, Research and Statistics Section, Legislative and Research Division, presented staff's recommendation for the 2014/15 excise tax rate setting for motor vehicle fuel and diesel fuel (fuel tax swap) ([Exhibit 2.2](#)).

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the 2014/15 excise tax rate on motor vehicle fuel at \$0.36 per gallon as recommended by staff.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board adopted the 2014/15 excise tax rate on diesel fuel at \$0.11 per gallon as recommended by staff.

Joe Fitz, Chief, Research and Statistics Section, Legislative and Research Division, presented staff's recommendation for the prepayment rate for sales tax on motor vehicle fuel, diesel fuel and jet fuel distributions for the period July 1, 2014 through June 30, 2015 ([Exhibit 2.3](#)).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board set the prepayment rate for sales tax on motor vehicle fuel at \$0.065 per gallon, diesel fuel at \$0.27 per gallon, and jet fuel at \$0.175 per gallon as recommended by staff.

PUBLIC COMMENT

Speaker: John Francis Kelly, owner of Kelly's Men Store ([Exhibit 2.4](#))

Ms. Yee requested staff research the effect of Ms. Pielsticker's letter to the California congressional delegation on the issue and that staff work with federal counterparts for guidance.

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The Board recessed at 10:23 a.m. and reconvened at 12:00 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come ([Exhibit 2.5](#)).

Sanan Boonchouy, Business Taxes Specialist I, Riverside District Office
Sylvia D. Peck, Tax Technician III, Riverside District Office
Rudolph C. Rodriguez, Business Taxes Specialist II, Computer Audit Specialist
Section, Riverside District Office
Deberah A. Van Hook, Business Taxes Representative, Sales and Use Tax
Department, Culver City District Office

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee – January 16, 2014

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 2.6](#)).

Legislative Committee – February 25, 2014

Action: The Board deferred the matter to later in the day.

Property Tax Committee – February 25, 2014

Action: The Board deferred the matter to latter in the day.

OTHER ADMINISTRATIVE MATTERS

Cynthia Bridges, Executive Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

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Todd Gilman, Taxpayer Rights Advocate, Taxpayers' Rights Advocate Office, presented the Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of services provided ([Exhibit 2.7](#)).

Sales and Use Tax Deputy Director's Report

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided an update regarding the Compliance Program ([Exhibit 2.8](#)).

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided staff's recommendation for setting the 2014/15 diesel fuel tax rate for interstate users component b ([Exhibit 2.9](#)).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted a diesel fuel tax rate for interstate users component b of \$0.337 per gallon for 2014/15 as recommended by staff.

David Gau, Deputy Director, Property and Special Taxes Department, provided a report regarding the Fire Prevention Fee Program.

The Board recessed at 12:15 p.m. and reconvened at 1:33 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Kevin H. Sullivan and Claire K. Sullivan, 610943

2007, \$3,930.00 Assessment

2008, \$444,304.00 Assessment

For Appellants:

Kevin Sullivan, Taxpayer

Arthur A. Oshiro, Attorney

For Franchise Tax Board:

Maria Brosterhous, Tax Counsel

Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants have shown error in respondent's calculation of their California-sourced income and the resulting proposed assessments for 2007 and 2008.

Respondent's Exhibit: Miscellaneous Documents ([Exhibit 2.10](#))

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

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William G. Bean, 570401
2003, \$1,670.70 Assessment
2004, \$3,344.98 Assessment
2006, \$2,879.05 Assessment
2007, \$1,719.99 Assessment

For Appellant:

For Franchise Tax Board:

William G. Bean, Taxpayer
Marguerite Mosnier, Tax Counsel
Diane Ewing, Tax Counsel
Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board has jurisdiction to consider this appeal.

Whether appellant has shown that he is entitled to innocent spouse relief (ISR) pursuant to Revenue and Taxation Code (R&TC) section 18533.

Whether appellant has shown that he is entitled to relief from joint liability pursuant to R&TC section 19006.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 2.11](#))

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Yates Bailey, 718994

2003 and 2005, \$35,016.75 Assessment

For Appellant:

For Franchise Tax Board:

Yates Bailey, Taxpayer
Marguerite Mosnier, Tax Counsel
Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant's claim for refund is barred by the applicable statute of limitations.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

Joseph McCarthy and Robin McCarthy, 712368

2009, \$11,832.00 Assessment

For Appellants:

For Franchise Tax Board:

Joseph McCarthy, Taxpayer
Nancy Parker, Tax Counsel
Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants have shown reasonable cause for the abatement of the notice and demand penalty.

Whether the collection cost recovery fee may be abated.

Whether respondent properly computed appellants' overpayment for 2009.

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Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 3:54 p.m. and reconvened at 4:13 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

David R. Mills, 715376

2007, \$6,035.00 Taxes

For Appellant:

For Franchise Tax Board:

David R. Mills, Taxpayer

Nancy Parker, Tax Counsel

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the Franchise Tax Board's assessment, which was based upon federal adjustments.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 2.12](#))

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

PUBLIC HEARINGS

Property Taxes – State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values

Ken Thompson, Chief, State Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding 1) the state assessee's presentation on capitalization rates and other factors and procedures affecting 2014/15 property values of California public utilities, railroads, and pipelines; and, 2) private railroad car assessee's presentations on factors and procedures affecting 2014/15 taxable values of private railroad cars.

Speaker: Peter Michaels, Law Office of Peter Michaels

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Ribhi A. Sinnawi, 745178 (STF)

04/03/13, \$551.00 Approximate Value

Action: Determined that the tobacco products should be forfeited.

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Mohinder Singh Nahal, 745226 (STF)

04/09/13, \$146.00 Approximate Value

Action: Determined that the tobacco products should be forfeited.

Topcat Motors, Inc., 745236 (STF)

03/14/13, \$14,237.41 Approximate Value

Action: Determined that the tobacco products should be forfeited.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Gaddam Reddy and Preetha Reddy, 623814.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Albert Rogo, 733842

2009, \$601.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Fernando Torres Guzman, 612102

2006, \$517.00 Tax, \$103.40 Accuracy-Related Penalty

2007, \$6,621.00 Tax, \$1,324.20 Accuracy-Related Penalty

2008, \$1,744.00 Tax, \$348.80 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Douglas Aloff, 676539

2007, \$2,689.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Elliot Steven Blut, 611671

2009, \$1,713.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Suzy Burns, 553367

2005, \$875.00 Tax, \$244.70 Interest

Action: Sustain the action of the Franchise Tax Board.

Joshua Davis and Susan Dullabh-Davis, 640334

2008, \$831.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Josefina Gonzalez, 646275

2010, \$1,121.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Grace Qin Gu, 620989

2008, \$5,033.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Lena Hendrix, 626058

2008, \$4,177.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Rodrigo M. Leon-Lalama, 690162

2008, \$594.00 Tax

Action: Sustain the action of the Franchise Tax Board.

William A. Llanos, 671777

2010, \$2,827.00 Assessment, \$706.75 Late Filing Penalty, \$1,709.00 Demand Penalty, \$88.00 Enforcement Fee

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Stephen Van Middlesworth, 623525

2008, \$258.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jeffrey J. Nadeau, 593536

2009, \$1,641.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Marilyn Nicolas, 612182

2009, \$750.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Amol C. Pandya and Ila A. Pandya, 612780

2009, \$1,578.21 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Liberato M. Pascual and Nenita R. Pascual, 607076

2007, \$901.00 Tax, \$180.20 Accuracy-Related Penalty

2008, \$1,765.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Gust Perlegos and Mary Perlegos, 599753

2010, \$34,929.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Gaddam Reddy and Preetha Reddy, 623814

2005, \$8,595.00 Claim for Refund

Action: The Board took no action.

William A. Thurlow, 532888

2005, \$10,142.03 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael Robert Scott, 653284

2010, \$848.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Amy E. Wang, 594615

2008, \$1,449.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Fredrick Wilding and Carol Wilding, 528279

2005, \$4,222.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

N. Art Astor and Antonia Astor, 578492

2004, \$57,319.00 Tax

2005, \$13,463.00 Tax

2006, \$16,114.00 Tax

Action: Deny the petition for rehearing.

Dennis Robert Bird, 599566

2009, \$273.25 Tax, \$100.00 Filing Enforcement Fee

Action: Deny the petition for rehearing.

Thomas Bledsoe and Lori Bledsoe, 601105

2004, \$1,031.00 Tax

Action: Deny the petition for rehearing.

Charles Cullen and Philomena Cullen, 593634

2007, \$738.00 Tax

Action: Deny the petition for rehearing.

Jacques Delacroix and Krishna Delacroix, 626423

2013, \$9,456.00 Assessment, \$1,891.20 Accuracy-Related Penalty

Action: Deny the petition for rehearing.

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SALES AND USE TAX MATTERS, REDETERMINATIONS, DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, and, Grant-One Day Interest Relief, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders.

Fuji Medical Systems U.S.A., Inc., 714645 (OH)

01/01/08 to 12/31/10, \$363,781.50

Action: Approve the redetermination as recommended by staff.

Howmedica Osteonics Corp., 715495 (OH)

10/01/07 to 09/30/10, \$654,593.45

Action: Approve the redetermination as recommended by staff.

St. Jude Medical S C, Inc., 677128 (OH)

01/01/08 to 12/31/10, \$516,969.19

Action: Approve the redetermination as recommended by staff.

Hilvers Construction, Inc., 578563 (DF)

09/01/03 to 06/30/06, \$472,473.52

Action: Approve the redetermination as recommended by staff.

Tri-State Materials, Inc., 577095 (EH)

01/01/07 to 03/31/10, \$1,007,974.92

Action: Approve the redetermination as recommended by staff.

Staples The Office Superstore, LLC, 741345 (OH)

7/01/07 to 06/30/10, \$237,420.82

Action: Approve the redetermination as recommended by staff.

Oracle Corporation, 493923 (BH)

01/01/02 to 02/28/05, \$272,367.41

Action: Approve the denial of claim for refund as recommended by staff.

Penumbra, Inc., 558006 (CH)

01/01/08 to 03/31/10, \$295,631.00

Action: Approve the denial of claim for refund as recommended by staff.

PCL Construction, Inc., 733105 (OH)

06/01/09 to 06/30/11, \$173,478.29

Action: Approve the denial of claim for refund as recommended by staff.

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Sigmanet, Inc., 785302 (EH)

01/01/13 to 03/31/13, \$2,023.02

Action: Approve the one day interest relief as recommended by staff.

Pican Oakland Restaurant, LLC, 785300 (CH)

08/01/13 to 08/31/13, \$96.71

Action: Approve the one day interest relief as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Qualcomm, Inc., 770185 (FH)*, the Board made the following orders:

Angie Marie Decoux, 779125 (JH)

07/01/09 to 03/31/12, \$349,724.33

Action: Approve the credit and cancellation as recommended by staff.

Sony Pictures Studios, Inc., 716441 (AS)

04/01/10 to 09/30/12, \$731,586.00

Action: Approve the refund as recommended by staff.

Qualcomm, Inc., 770185 (FH)

01/01/07 to 03/31/10, \$2,833,028.13

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Columbia Pictures Industries, Inc., 716429 (OH)

01/01/09 to 03/31/09, \$118,341.00

Action: Approve the refund as recommended by staff.

Columbia Pictures Industries, Inc., 716436 (OH)

04/01/09 to 09/30/12, \$1,494,603.00

Action: Approve the refund as recommended by staff.

Bruker Biospin Corporation, 612120 (OH)

07/01/11 to 12/31/11, \$212,440.73

Action: Approve the refund as recommended by staff.

Sony Electronics, Inc., 716432 (OH)

01/01/10 to 03/31/11, \$7,695,723.00

Action: Approve the refund as recommended by staff.

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Sony Electronics, Inc., 716437 (OH)

10/01/09 to 03/31/10, \$3,324,755.00

Action: Approve the refund as recommended by staff.

Sony Electronics, Inc., 716440 (OH)

01/01/11 to 09/30/11, \$3,314,166.00

Action: Approve the refund as recommended by staff.

Sony Electronics, Inc., 716427 (OH)

10/01/09 to 12/31/09, \$461,693.00

Action: Approve the refund as recommended by staff.

Farmers Insurance Group, 531592 (AS)

01/01/07 to 12/31/10, \$1,305,654.30

Action: Approve the refund as recommended by staff.

Verizon Business Purchasing, LLC, 561829 (OH)

01/01/08 to 12/31/08, \$137,249.28

Action: Approve the refund as recommended by staff.

Screen Gems, Inc., 716430 (AS)

10/01/09 to 09/30/12, \$433,912.00

Action: Approve the refund as recommended by staff.

Terumo BCT, Inc., 606474 (OH)

10/01/08 to 09/30/11, \$429,234.78

Action: Approve the refund as recommended by staff.

Agilysys NJ, Inc., 608250 (OH)

01/01/09 to 12/31/09, \$263,751.03

Action: Approve the refund as recommended by staff.

Oracle America, Inc., 774391 (BH)

01/01/10 to 03/31/12, \$314,843.61

Action: Approve the refund as recommended by staff.

Oracle Corporation, 493923 (BH)

01/01/02 to 02/28/05, \$499,223.40

Action: Approve the refund as recommended by staff.

Oracle USA, Inc., 602000 (CH)

07/01/04 to 02/14/10, \$1,763,290.22

Action: Approve the refund as recommended by staff.

Sel Retail Operations, 716425 (OH)

10/01/10 to 09/30/12, \$6,324,413.00

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Action: Approve the refund as recommended by staff.

Sel Retail Operations, 716435 (OH)

10/01/09 to 12/31/10, \$3,563,309.00

Action: Approve the refund as recommended by staff.

Optovue, Inc., 768580 (CH)

07/01/09 to 06/30/12, \$169,333.57

Action: Approve the refund as recommended by staff.

American Express Centurion Bank, 309637 (OH)

01/01/02 to 12/31/05, \$2,034,897.64

Action: Approve the refund as recommended by staff.

HSN Interactive, LLC, 775220 (OH)

01/01/10 to 12/31/11, \$122,892.97

Action: Approve the refund as recommended by staff.

CRST Lincoln Sales, Inc., 588259 (EH)

07/01/08 to 06/30/11, \$133,111.60

Action: Approve the refund as recommended by staff.

Eloyalty, LLC, 665531 (OH)

10/01/11 to 12/31/11, \$209,651.32

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 , the Board made the following orders:

Anthem Blue Cross Life & Health Insurance Company, 767913 (STF) ‘

01/01/12 to 12/31/12, \$2,118,306.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Monumental Life Insurance, Co., 769513 (STF)

01/01/12 to 12/31/12, \$806,374.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

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LEGAL APPEALS MATTERS, ADJUDICATORY

Speakers: Elliott Speiser, Representative for *Benalex Windows & Doors Corp.*, 446664
William Chu, Representative for *Benalex Windows & Doors Corp.*, 446664
Niel Ruben, Son of Taxpayer, *Mordehay Rabinowiz*, 489446
Leron Rabinowiz, Son of Taxpayer, *Mordehay Rabinowiz*, 489446
Mordehay Rabinowiz, Taxpayer, *Mordehay Rabinowiz*, 489446

Stephen Anthony Fernando and Vivina Bridget Fernando, 571356, 571408 (EH)

04/01/08 to 10/18/10, \$8,339.93 Tax

07/01/05 to 03/31/08, \$16,915.58 Tax

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Ms. Yee withdrew the motion.

Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the pilferage allowance be increased to 5 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Benalex Windows & Doors Corp., 446664 (AA)

07/01/04 to 06/30/07, \$332,460.04 Tax, \$33,692.40 Penalty

Considered by the Board: January 16, 2014

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board granted an additional 30 days to file supporting documents.

Mordehay Rabinowiz, 489446 (AC)

07/01/03 to 06/30/08, \$26,390.83 Tax, \$6,621.22 Penalty

Considered by the Board: November 19, 2013

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition for rehearing be granted.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,
ADJUDICATORY**

Pacific Coast Building Products, Inc., 514183

Erin Sullivan, 573889

Patricia D. Anderson (Deceased), 573893

Carol Anderson Ward, 573897

John E. Anderson, 573901

David Lucchetti and Christine Lucchetti, 573905

Keith Harris and Mary Harris, 573908

James Anderson and Jacquelyn Anderson, 573911

1999, \$411,759.00 Claimed R&D Credit Amount

2000, \$401,572.00 Claimed R&D Credit Amount

2001, \$625,301.00 Claimed R&D Credit Amount, \$202,491.00 Refund Claimed

2002, \$493,988.00 Claimed R&D Credit Amount, \$160,062.00 Refund Claimed

2003, \$382,705.00 Claimed R&D Credit Amount, \$124,103.00 Refund Claimed

2004, \$395,374.00 Claimed R&D Credit Amount, \$128,149.00 Refund Claimed

Considered by the Board: Summary Decision (Rev. & Tax. Code, § 40)

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the written summary decision as amended by staff.

LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY

La Paloma Generating Company, LLC (1112), 742923

2013, \$333,300,000.00 Unitary Value

Considered by the Board: Summary Decision (Rev. & Tax. Code, § 40)

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: The Board postponed this matter to the March 25, 2014 Board Meeting.

**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION
DISCLOSURE STATUTE**

PROPERTY TAX MATTERS

Audits

California Rural Services Area #1, Inc. (2671)

2010 - 2013, \$2,800,000.00 Excessive Assessment, \$80,000.00 Penalties, \$264,000.00 In-lieu Interest

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

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NobelTel, LLC (7992)

2011 - 2013, \$65,900.00 Escaped Assessment, \$6,590.00 Penalties, \$10,740.00 In-lieu Interest
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Neutral Tandem-California, LLC (8002)

2010 - 2013, \$1,060,000.00 Excessive Assessment, \$43,800.00 In-lieu Interest
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

OPEX Communications, Inc. (8076)

2011 - 2013, \$176,000.00 Escaped Assessment, \$17,600.00 Penalties, \$34,140.00 In-lieu Interest
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

OpticAccess, LLC (8150)

2013, \$686,000.00 Escaped Assessment, \$68,600.00 Penalties, \$41,160.00 In-lieu Interest
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

CVIN, LLC (8151)

2012 - 2013, \$27,730,000.00 Escaped Assessment, \$2,773,000.00 Penalties, \$1,918,500.00 In-lieu Interest
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Unitary and Nonunitary Escaped Assessments**Pacific Imperial Railroad (835)**

2013, \$5,330,000.00 Escaped Assessment
Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

Tuesday, February 25, 2014

Board Roll Changes**2010, 2011, 2012, and 2013 Board Rolls of State-Assessed Property**

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2010, 2011, 2012 and 2013 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 2.13](#)).

2013 Private Railroad Car Roll

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2013 Private Railroad Car Roll as recommended by staff ([Exhibit 2.14](#)).

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Bay Area Fence & Deck, Inc.*; *John Buckley*; *Cal-U-Rent of Thousand Oaks, Inc.*; *Lila Ohanians*; *Papillon Two, Inc.*; *Shawn Glenn Silver*; and, *Dale Leroy Waldron*; as recommended by staff.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD FEBRUARY 25, 2014****Site Management Services, Inc., 713613**

2003, \$22,633.00 Assessment

For Appellant:

For Franchise Tax Board:

Waived Appearance

Eric Yadao, Tax Counsel

Karen Smith, Tax Counsel

Michael Cornez, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has shown that the determination by the Franchise Tax Board to impose an accuracy-related penalty based on a federal audit report is incorrect.

Action: Mr. Runner moved to reverse the action of the Franchise Tax Board. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board sustained the action of the Franchise Tax Board.

Tuesday, February 25, 2014

Kevin H. Sullivan and Claire K. Sullivan, 610943

Final Action: Ms. Steel moved to modify the action by the Franchise Tax Board, treating November 9, 2007 as the grant date for stock options. The motion failed for lack of a second.

Upon motion of Ms. Yee, seconded by Mr. Runner and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board sustained the action of the Franchise Tax Board as modified by its concessions.

William G. Bean, 570401

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board dismissed the appeal for lack of jurisdiction.

Joseph McCarthy and Robin McCarthy, 712368

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

David R. Mills, 715376

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and directed staff to inform taxpayer of frivolous appeals.

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**Legislative Committee – February 25, 2014**

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 2.15](#)).

Property Tax Committee – February 25, 2014

Action: Upon motion of Ms. Steel seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Property Tax Committee report and the actions therein ([Exhibit 2.16](#)).

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 5:11 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

Tuesday, February 25, 2014

The Board recessed at 5:22 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

The Board recessed at 5:23 p.m.

The foregoing minutes are adopted by the Board on April 22, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Gary Sabin and Valerie P. Sabin, 606124; John P. Martin, 614001; Eric Gehring, 733072; Daniel F. Dong, 734198; Luis Becerra and Nadia Becerra, 725816; Verizon California, Inc. (201), 742936; GWF Energy, LLC – Hanford (1122), 743424; GWF Energy, LLC – Henrietta (1123), 743425; GWF Energy, LLC – Tracy (1124), 743427; and, Approval of Board Meeting Minutes November 19-20, 2014.*

Wednesday, February 26, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:33 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

2012/2013 EMPLOYEE RECOGNITION AWARD PROGRAM

Ms. Steel extended her congratulations to the 19 out of her 55 employees from her district, while also recognizing a staff member for being taxpayer friendly. Ms. Yee recognized the diversity that the agency continues to develop to provide better customer service. Ms. Yee extended her appreciation for all those who are receiving awards. Mr. Runner extended his appreciation for the recipient's professionalism and desire to do what's best and most helpful for taxpayers and the State of California. Ms. Mandel extended her appreciation on behalf of the State Controller and former Board Member Fourth District, John Chiang, for all the hard work being done to help the taxpayers better understand their obligations. Mr. Horton extended his appreciation for all of the commitment and courage that employees take on when approaching challenging situations and always making it better for the taxpayers. Cristina Herrera, Staff Services Manager III, Executive Projects & Services Section, External Affairs Department, read the names of the award recipients and their achievements into the record.

The Board recessed at 10:00 a.m. and reconvened at 10:21 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARINGS

Z & R Oil Corporation, 532457 (AS)

01/01/07 to 12/31/09, \$365,725.11 Tax, \$36,572.56 Negligence Penalty

Three Four R, Inc., 532577 (AS)

01/01/07 to 12/31/09, \$188,649.41 Tax, \$18,864.96 Negligence Penalty

Rashid & Sons, Inc., 533211 (AS)

01/01/07 to 12/31/09, \$212,187.87 Tax, \$21,218.43 Negligence Penalty

RD 786 Enterprises, Inc., 533217 (AS)

01/01/07 to 12/31/09, \$115,127.55 Tax, \$11,512.75 Negligence Penalty

For Petitioners: Jafar Rashid, Taxpayer

For Sales and Use Tax Department: Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether additional adjustments are warranted to the amount of unreported taxable sales.

Whether petitioner was negligent.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Wednesday, February 26, 2014

Lasting Interiors, Inc., 554909 (EA)

04/01/05 to 03/31/08, \$201,011.76 Tax

For Petitioner:

Ivy Last, Taxpayer

Robert Crosby, Representative

Devon D. Googins, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether additional adjustments to the amount of unreported taxable sales of furnishings are warranted.

Whether any additional adjustments to the amount of unreported taxable freight charges are warranted.

Whether petitioner is entitled to relief of interest.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 12:43 p.m. and reconvened at 2:05 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

WCN, Inc., 491680 (AS)

07/01/04 to 12/31/07, \$40,979.31 Tax, \$4,097.95 Penalty

For Petitioner:

Mike Shenassafar, Representative

Taraneh Torbati, Representative

For Sales and Use Tax Department:

Marc Alviso, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether any further adjustments are warranted to the amount of unreported taxable sales.

Whether further adjustments are warranted to the disallowed claimed sales for resale.

Whether further adjustments are warranted to the disallowed claimed sales in interstate commerce.

Whether petitioner was negligent.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to submit supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

The Board recessed at 2:53 p.m. and reconvened at 3:03 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Wednesday, February 26, 2014

APIC Corporation, 447477 (AS)
01/01/04 to 12/31/06, \$28,338.00 Tax
For Petitioner:

Denise Lortie, Taxpayer
Larry Dodds, Witness
Don Lynch, Representative
Erin Dendorfer, Tax Counsel

For Sales and Use Tax Department:

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner owes use tax on its purchases of certain consumable supplies and materials used in the performance of a contract with the U.S. Government.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Lawrence Lyle Palmer, 534236 (EA)
Richard Scoles, 535973 (EA)
Frank Nicholas Colson, 535974 (EA)
10/01/07 to 07/28/08, \$229,789.46 Tax, \$16,261.60 Failure to File Penalties, \$15,761.60 Finality Penalties
For Petitioners:

Richard Scoles, Taxpayer
Lawrence L. Palmer, Taxpayer
Frank Nicholas Colson, Taxpayer
Cary Huxsoll, Tax Counsel

For Sales and Use Tax Department:

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of Pro-Motors Corporation pursuant to Revenue and Taxation Code section 6829.

Whether petitioner has established reasonable cause sufficient for relieving the penalties originally assessed against Pro-Motors.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD FEBRUARY 26, 2014

Z & R Oil Corporation, 532457 (AS)
Three Four R, Inc., 532577 (AS)
Rashid & Sons, Inc., 533211 (AS)
RD 786 Enterprises, Inc., 533217 (AS)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wednesday, February 26, 2014

Lasting Interiors, Inc., 554909 (EA)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the markup be adjusted to include the two negative markup transactions and that the petition otherwise be redetermined as recommended by the Appeals Division.

APIC Corporation, 447477 (AS)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be granted as to the remaining disputed items, and the tax be redetermined accordingly.

Lawrence Lyle Palmer, 534236 (EA)

Richard Scoles, 535973 (EA)

Frank Nicholas Colson, 535974 (EA)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be granted and the tax be redetermined accordingly.

The Board recessed at 4:24 p.m.

The foregoing minutes are adopted by the Board on April 22, 2014.

Note: The following matters were removed from the calendar prior to the meeting: Cities of Adelanto, et al., 587732; G & C Equipment Corporation, 373826 (AS); G3 Mastering Solutions, Inc., 549262 (AA); Sergio Cortes Nunez, 523181 (AS); and Hafid Alaoui, 588302 (EH).

Thursday, February 27, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City at 9:32 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Vaskin Koshkerian, 624762 (STF)

10/01/00 to 06/30/01, \$65,463.00 Claimed Refund, \$6,299.00 Failure-to-file Penalty, \$6,299.00 Finality Penalty

Vaskin Koshkerian, 607521 (EA)

01/01/00 to 03/07/01, \$57,419.55 Claimed Refund

For Claimants:

Vaskin Koshkerian, Taxpayer

Roberto Bonito, Representative

For Sales and Use Tax Department:

Carolee Johnstone, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues:

Whether claimant is entitled to a refund of the fee.

Whether relief of the failure-to-file penalty is warranted.

Whether relief of the finality penalty is warranted.

Whether claimant is personally liable as a general partner for the partnership's tax liability for the period January 1, 2000, through March 7, 2001.

Whether adjustments are warranted to the partnership's tax liability.

Action:

Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claim be submitted for decision.

College Shell, LLC, 576308 (AR)

01/01/07 to 12/31/09, \$35,774.96 Tax

For Petitioner:

Laraine C. Sliwoski, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues:

Whether any further adjustments are warranted to the amount of unreported taxable mini-mart sales.

Whether adjustments are warranted to the credit amount for the difference between recorded and reported taxable sales.

Whether further adjustments to the amount of the over-claimed credit for sales tax pre-paid to distributors of fuel are warranted.

Action:

Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 11:51 a.m. and reconvened at 12:04 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Thursday, February 27, 2014

Mark Andrew Zevotek, 507203 (EA)

Cheryl Ann Zevotek, 507207 (EA)

01/01/03 to 04/24/06, \$44,538.87 Tax, \$5,734.57 Penalty

For Taxpayers:

Mark A. Zevotek, Taxpayer

Cheryl Ann Zevotek, Taxpayer

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether taxpayers are personally liable as responsible persons for the unpaid liabilities of Stonetek Consultants Corporation (SCC).

Whether additional adjustments are warranted to the unreported taxable sales established in the audit of SCC.

Whether taxpayers have established reasonable cause sufficient for relieving the late-payment and late prepayment penalties originally assessed against SCC.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 1:16 p.m. and reconvened at 2:30 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Frances Phuong Tsu, 535710 (EA)

01/01/07 to 12/31/09, \$48,942.36 Tax

For Petitioner:

Frances Tsu, Taxpayer

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether adjustments are warranted to unreported taxable sales.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Providence Health System – Southern California, 578178 (AS)

10/01/08 to 03/31/11, \$7,151.00 Claim for Refund

For Claimant:

Wade M. Downey, Representative

Roderick Calub, Representative

Stacey Remkiewicz, Representative

For Sales and Use Tax Department:

Scott Claremon, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether claimant's purchases of breast tissue markers are subject to tax.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claim be submitted for decision.

Thursday, February 27, 2014

Magnum Breeze II, Inc., 538790 (EH)

10/01/06 to 12/31/109, \$173,880.66 Tax, \$1,884.61 Penalty

For Petitioner:

Jack Kelley, Taxpayer

Dani Khouri, Representative

For Sales and Use Tax Department:

Scott Claremon, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether adjustments are warranted to the disallowed claimed exempt sales to the U.S. Government.

Whether adjustments are warranted to the disallowed claimed nontaxable labor and charges for labor that were netted from reported total sales.

Whether relief of the failure-to-file penalty is warranted.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

SPECIAL TAXES APPEALS HEARINGS

ESG Management, Inc., 481182, 510896, 574007 (STF)

01/01/05 to 12/31/07, \$2,189.00 Claim for Refund

01/01/05 to 12/31/08, \$15,844.00 Claim for Refund

01/01/05 to 12/31/08, \$11,233.00 Environmental Fee, \$1,123.00 Negligence Penalty

Coastal Staffing, Inc., 523057 (STF)

01/01/06 to 12/31/07, \$1,802.00 Claim for Refund

Progressive Employer Solutions, Inc., 566371 (STF)

01/01/07 to 12/31/09, \$1,920.00 Claim for Refund

Staff Construction, Inc., 519219 (STF)

01/01/06 to 12/31/07, \$512.00 Claim for Refund

Staff Resources, Inc., 490566, 568810 (STF)

01/01/06 to 12/31/08, \$28,277.00

01/01/09 to 12/31/09, \$3,994.00

Your People Professionals, Inc., 523056 (STF)

01/01/06 to 12/31/08, \$8,160.00 Claim for Refund

Teamwork Human Resources, Inc., 551119, 561488 (STF)

01/01/07 to 12/31/09, \$11,224.00 Claim for Refund

01/01/07 to 12/31/09, \$1,105.00 Claim for Refund

Singlepoint Outsourcing, Inc., 522966 (STF)

01/01/06 to 12/31/07, \$2,808.00 Claim for Refund

For Claimants: John L. Palmer, Attorney

For Property and Special Taxes Department: Pamela Mash, Tax Counsel

For Department of Toxic Substances Control: Jennifer Connor, Attorney

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether feepayer is liable for the environmental fee for the years 2005 through 2008.

Whether claimant is liable for the environmental fee for 2006 and 2007.

Whether claimant is liable for the environmental fee for 2007 and 2009.

Thursday, February 27, 2014

Whether claimant is liable for the environmental fee for 2006 and 2007.
Whether claimant is liable for the environmental fee for the years 2006 through 2009.

Whether claimant is liable for the environmental fee for the years 2006 through 2008.

Whether claimant is liable for the environmental fee and interest for the years 2007 through 2009.

Whether claimant is liable for the environmental fee for 2006 and 2007.
Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claims be submitted for decision.

The Board recessed at 4:04 p.m. and reconvened at 4:05 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Ruby One Investment, Inc., 745225 (STF)

03/20/13, \$284.00 Approximate Value

For Petitioner:

Zul Hirani, Taxpayer

For Property and Special Taxes Department:

Pamela Mash, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the cigarettes not listed in the California Tobacco Directory (CTD) (non-MSA) should be forfeited because they are described by Revenue and Taxation Code section 30436, subdivision (e) and whether the tobacco products should be forfeited because they are described by Business and Professions Code section 22974.3, subdivision (b).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 4:49 p.m. and reconvened at 4:58 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD FEBRUARY 27, 2014

Vaskin Koshkerian, 624762 (STF)

Vaskin Koshkerian, 607521 (EA)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claims for refund be denied as recommended by the Appeals Division.

College Shell, LLC, 576308 (AR)

Final Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

Thursday, February 27, 2014

Mark Andrew Zevotek, 507203 (EA)

Cheryl Ann Zevotek, 507207 (EA)

Final Action: Ms. Steel moved to relieve 14.5 months of interest. The motion was seconded by Mr. Runner but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered no further adjustments be made in the administrative protests as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise Program.

Frances Phuong Tsu, 535710 (EA)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise Program.

Providence Health System – Southern California, 578178 (AS)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claim be granted and the tax be redetermined accordingly. The Board directed staff to initiate the rulemaking process to clarify Regulation 1591.

Magnum Breeze II, Inc., 538790 (EH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise Program.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD FEBRUARY 27, 2014

ESG Management, Inc., 481182, 510896, 574007 (STF)

Coastal Staffing, Inc., 523057 (STF)

Progressive Employer Solutions, Inc., 566371 (STF)

Staff Construction, Inc., 519219 (STF)

Staff Resources, Inc., 490566, 568810 (STF)

Your People Professionals, Inc., 523056 (STF)

Teamwork Human Resources, Inc., 551119, 561488 (STF)

Singlepoint Outsourcing, Inc., 522966 (STF)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that the claims for refund be denied as recommended by the Appeals Division.

Thursday, February 27, 2014

Ruby One Investment, Inc., 745225 (STF)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board determined that staff properly seized the tobacco products.

The Board adjourned at 5:17 p.m.

The foregoing minutes are adopted by the Board on April 22, 2014.

Note: The following matters were removed from the calendar prior to the meeting, Brian Yong Jun Kim and Diane H. Kim, 536295 (EA); Eren Niazi, 482301; Kamaluddin & Khashwji Corp., 592883 (FH); Kamaluddin & Thobhani, Inc., 592886 (FH); Osteria Panevino, Inc., 529994 (FH); Garo Apo Garabedian, 522650 (AP); Eva Marie Tice, 484005 (UT); Mikhael Issa Kamar, 449152 (STF); Mikhael Issa Kamar, 449153 (STF); and John Issa Kamar, 463782 (DF).